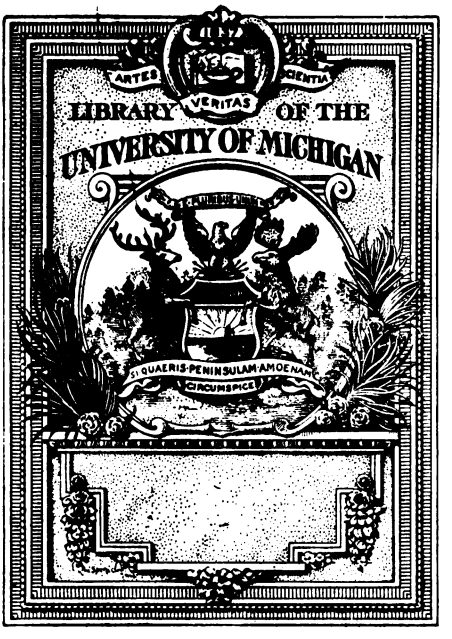
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BILLBOARD ADVERTISING IN ST. LOUIS

Report of the
Signs and Billboards Committee
of the Civic League

The Civic League of Saint Louis
903 SECURITY BUILDING
St. Louis, Mo.
1910

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STATEMENT OF THE EXECUTIVE BOARD

To the Citizens of St. Louis:—

One of the first committees appointed by the League after its organization in 1902 was a committee on Signs and Billboards.

The Executive Board believed then, as it does now, that there should be provided by ordinance the most stringent regulations of billboard advertising which the Courts will permit; and that public opinion should, if possible, be crystallized into a united opposition to this form of civic ugliness.

The League's committee has prepared this able report and it is published in order to present to the citizens of St. Louis the difficulties in the way of desirable legal restrictions on billboard advertising, to indicate the gradual growth of judicial and public opinion in regard to this method of publicity, and to point out the various means by which an effective campaign can be carried on against signs and billboards.

The Committee has gone extensively into the legal phases of the discussion for the reason that in the legal questions involved are to be found the difficulties which have thus far prevented a satisfactory solution of the problem. It has also suggested a plan of campaign which can be elaborated or restricted after the opinion of the Supreme Court of Missouri has been rendered on the pending injunction against the City of St. Louis which prevents the enforcement of existing billboard ordinances.

We approve the recommendations of the Committee and herewith present the report to the citizens of St. Louis for their information.

THE EXECUTIVE BOARD OF THE CIVIC LEAGUE

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BILLBOARD ADVERTISING IN ST. LOUIS
REPORT SUMMARIZED

I. Effort to Regulate.

Ordinance to regulate height, size, distance from building line, etc., passed in 1905.

Injunction against its enforcement issued by Judge Douglas in 1908.

Suit now pending before Supreme Court of Missouri.

II. Investigation by Civic League Committee shows:

Total area—1,374,537 square feet of billboard surface in St. Louis.

Double deckers comprise 18% of total area.

Individual advertisers number 293.

Largest advertisers—liquors, tobacco, theatres.

Total value of billboard structures (estimated) $140,000.

Annual gross income to billposting companies (estimated) $450,000.

Taxes paid to City in 1908—$10.00 license fee by each of three companies. Taxed on personal property assessed at $2,500.

III. Reason for oppositon to billboards.

Dangerous in case of wind and fire.

A menace to health when used as a dumping ground for waste.

Damaging to public morals when used for indecent and immoral posters.

A hiding place for miscreants.

Unsightly.

IV. Methods of Attack.

A. Legislation.

Ordinances and statutes can regulate but not abolish—Courts have sustained reasonable regulations.

Courts have generally refused to sustain ordinances and statutes, affecting billboards which were not clearly intended to protect the public health, public safety and public morals.

Indications that the Courts are slowly tending toward a recognition of the aesthetic element as a legitimate exercise of the police power.

B. Taxation.

Billboards can be taxed but the tax must be reasonable and not confiscatory.

Committee recommends an annual license tax of at least $50.00 and a tax of at least three cents per square foot of billboard area.

C. Arousing Public Opinion.

Ordinances and statutes can regulate but public opinion alone can eliminate billboards.

Billboard advertising made unpopular becomes unprofitable and will disappear.

V. Methods of Regulation in Other Countries.

England—Parliament has given local authorities power to prevent unsightly advertising.

France—Out-door advertising is closely supervised and severely taxed.

Germany—Grants franchise for advertising privileges, then rigidly supervises its exercise.

South America—Taxation and strict regulation the practice in South American cities.

VI. A Suggested Campaign Against Billboards.

To furnish our members and others requesting it, a full list of advertisers on billboards in St. Louis, and urge them to write to these advertisers asking them to refrain from such advertising.

To urge property owners and agents to refuse the use of their property for such publicity.

To solicit the support of local improvement associations, social clubs and church clubs in a movement to check billboard advertising.

To cooperate with the Building Commissioner in ascertaining what billboards have been erected in violation of the ordinance.

To frame and seek to secure the passage and enforcement of ordinances and statutes taxing and regulating billboards.

Courtesy of Mr. Donnell

Cartoon from the Globe-Democrat

BILLBOARD ADVERTISING IN ST. LOUIS

(Report of the Signs and Billboard Committee.)

NREGULATED billboard advertising has become one of the most serious obstacles in the way of the movement to make St. Louis a more attractive city. City officials, the Civic League and a score of ward improvement associations have been working diligently for a number of years to improve the appearance of our surroundings. Our streets are rapidly becoming well paved, trees are being planted on residential streets, private residences as well as public buildings are gradually becoming more artistic, and the sentiment for a more beautiful city is permeating every section of the city. But all of this desire for improvement and this wide-spread sentiment for more attractive surroundings is on every hand forced to contend with the unsightliness and rude aggressiveness of walls of lurid advertisements which line our important thoroughfares. Until some effective method of regulation or elimination is found the fight for a cleaner and more attractive city will be seriously handicapped by these glaring and oftentimes grotesque forms of civic ugliness.

EFFORTS TO REGULATE

Four years ago when the present building code was being framed a section was submitted by the Civic League providing for the regulation of signs and billboards. The League's Committee, well acquainted with the experience of other cities where billboard ordinances had been held unconstitutional on the ground that they were unreasonable, carefully framed the sections in order that each provision would, in its opinion, come within the bounds of a reasonable exercise of the police power. After a number of public hearings with the Council Committee, the proposed sections with a few unimportant amendments were adopted as a part of the building code and became a law.

It provided, in substance, that no billboard should be over fourteen feet in height and one billboard should not be placed above another, in order that they might not expose too much wind surface and be easily blown over. Billboards were forbidden nearer than fifteen feet to any street or highway lest, if blown over, they should

fall on pedestrians. A space of four feet in the clear was required underneath so that they might no longer serve as a screen for foot pads and marauders. They were prohibited from approaching nearer than six feet to any building and were forbidden to be continuous for more than fifty feet in their length, lest they should hinder the work of the fire department and aid in the spread of fire. A permit from the Building Commissioner and the payment of a fee of $1.00 for each permit was required before a billboard could be erected.

INJUNCTION AGAINST THE CITY

The Building Commissioner not only approved these provisions but sought diligently to enforce them. The billboard companies for two years recognized the reasonableness of the regulations and offered little opposition to their enforcement. In 1907 one of the companies

The Billboard which led to the injunction proceedings. It is built on a narrow triangular strip of ground at the junction of N. Broadway and Third Street and furnishes three sides for advertising purposes.

which had secured the consent of the owners to enclose with billboards the Round Top Market site, a narrow wedge-shaped piece of ground on North Broadway, sought a permit from the building department. The permit was refused because the market site could not be enclosed without violating the provisions of the ordinance requiring that billboards should be placed fifteen feet back from the street line. The company proceeded to build the structure without a permit and when the city interfered and attempted to enforce the law

FIRST GREETINGS TO VISITORS

This double-decker occupies the entire block between Chestnut and Pine fronting on Eighteenth Street, near the Union Station. It leaves on the mind of the visitor a false impression of St. Louis.

the company promptly enjoined the city, the Mayor, the Building Commissioner and the Chief of Police from any interference with them in the peaceful and lawful conduct of their business. A temporary injunction was issued by Circuit Judge Walter B. Douglas and the cause being heard before him as to why the temporary injunction should not be made permanent he held that the ordinance in its every clause and provision was unconstitutional in that it was not "a proper exercise of the Charter or general police power of the City of St. Louis." In his decree he gave no reasons for his decision. The city promptly appealed the case and a final judgment from the Supreme Court of Missouri is awaited.

BILLBOARD COMPANIES TAKE ADVANTAGE OF SITUATION

The billboard companies, however, without awaiting the final decision of the courts and in defiance of a growing public sentiment began at once the erection of enormous "double deckers" in all sections of the city. The Building Commissioner and the Police Department, in the face of the injunction, are powerless to enforce any regulations and the passage of a new ordinance would only tend to weaken the case of the city in the pending injunction proceedings before the

A CONCENTRATION OF UGLINESS

Supreme Court. Whether the final judgment will reverse the trial court or not remains to be seen, but at the present time there are no restrictions on the erection of billboards in St. Louis.

INVESTIGATION BEGUN

In December, 1908, this Committee decided to make an investigation of the actual conditions, learn the extent of such advertising, and determine, if possible, how to check this rapidly growing infringement upon the interests of the public at large and this constant obstacle in the way of municipal improvements. An investigator was employed who proceeded to tabulate the billboards in the City of St. Louis and furnish the Committee with the location of each; the area in square feet; the name of the advertising company; the name of the advertiser; the material of which the boards were constructed, whether of wood or metal; the advertising material, whether paper or paint; and the height of the structure, whether single or double decker. More than one hundred photographs were taken, a few of which are reproduced in this report.

SOME RESULTS OF TABULATION

The results of this tabulation show the following interesting facts:

1. *Total Area.*—On February 1st, 1909, there was a total of 1,374,537 square feet of billboard surface in St. Louis under control of the billboard advertising companies and theatres. If to this be added the area covered by miscellaneous advertising, hand bills, etc., tacked on sheds and fences, the total would approximate considerably more than 1,500,000 square feet of surface area.

2. *Double Deckers.*—Eighteen per cent of the total area or approximately 250,000 square feet occupied the upper rows of boards which constitute the so-called double deckers and are in violation of the ordinance whose validity is in question.

3. *Wood or Metal.*—Of the total surface area approximately forty per cent was of metal and sixty per cent of wood construction.

4. *Number of Advertisers.*—The total number of individual advertisers were found to be 293 ranging, in the amount of advertising done, from a tobacco company's advertisement which occupied 60,595 square feet of the total area down to a hat company's advertisement which occupied only 108 square feet of surface area.

5. *Materials Advertised.*—The materials advertised, arranged in the order of the amount of surface occupied above 2,000 square feet, were as follows:

Material.	Sq. Ft. of Surface Area.
Liquor, (including beer and whiskey)	139,367
Tobacco (including cigars)	138,308
Theatres (not including thousands of handbill ads)	135,681
Wheat products (including bread, crackers, spaghetti, breakfast foods, etc.)	118,311
Furniture	74,375
Clothing (including dry goods, shoes, collars, furs, etc.)	73,414
Railroads	52,628
Soft Drinks	52,306
Patent Medicines	44,195
Confectioneries	34,640
Coffee	29,050
Stoves	23,875
Union Labor	23,446
Jewelry	17,429
Rubber Goods	13,888
Banks and Trust Companies	13,673
Evaporated Milk	11,910
Pianos	9,396
Toilet Articles	6,662
Dyeing and Cleaning Companies	6,372
Electricity	5,888
Tailoring	5,242
Cleaning Material	4,900
Real Estate	4,690
Flour Mills	4,084
Department Stores	3,580
Undertakers	3,268
Express Companies	2,504
Photo Supplies	2,382
Launderers	2,190
Water Heaters	2,005

6. Only one of the downtown banks or trust companies advertises on billboards. The total surface occupied by department stores was only 3,580 square feet, and this, we were informed, would be discontinued upon the expiration of existing contracts.

The above figures indicate the extent to which billboard advertising has developed, especially in the two years since the issuance of the injunction and the inability of the city to enforce any restrictions.

FINANCIAL SIDE OF BILLBOARD ADVERTISING

This Committee has made an effort to find out the total sum invested by the billboard companies, the average prices paid to owners

of real estate where the signs are erected, and the cost per square foot of area to the advertiser. While the figures are only estimates based upon the figures furnished in part by a former billboard contractor, they are, we believe, fairly accurate.

1. The total value of the billboard construction in St. Louis, including posts and covering, both wood and metal, based upon an average cost of ten cents per square foot or $1.20 per lineal foot, amounts to approximately $140,000.

2. The prices paid to property owners for locations vary from twenty-five cents to five or six dollars per front foot of lot area per annum.

In some cases the rental value more than pays the taxes on the property—and in some cases the rental value from the billboards

THE ZIG ZAG BILLBOARD
Passersby cannot avoid seeing it from some angle. A maximum surface area on a minimum space.

amounts to more than it would if a one-story business house were situated on the lot. The city would tax the business house if erected—the billboard goes untaxed.

3. *Cost of Advertising.*—The price of space on billboards varies with the location but ranges in value from ten cents per month per lineal foot (that is, a strip one foot wide running across the board from top to bottom) to one dollar per lineal foot. The average cost per month of the space per lineal foot is approximately thirty-five cents or

four dollars and twenty cents per lineal foot per year. On this basis for the total area of 1,300,000 square feet, which means approximately 110,000 lineal feet, the total gross income to the billboard companies amounts to at least $450,000 per annum. This sum comes from the pockets of the consumer to assist in defraying the expenses of making our city ugly.

The total investment by the several advertising companies, the amount of income to the owners of vacant property, and the large profits which accrue to the billboard companies indicate the forces which must be overcome before this form of civic ugliness can be eliminated. The question then is, what method of attack should be adopted to rid the city of this unsightliness?

REASONS FOR OPPOSITION TO BILLBOARDS

The attack on billboards has at various times taken different forms; denunciation, legislation, boycott, or the general arousing of public sentiment against billboards. It has sometimes taken the form of unreasonable denunciation; oftentimes, of invalid legislation. While there has been reason for this extravagance it has accomplished little in checking the growth of the business. Much has been made of the argument that billboards are unsafe, unsanitary and even immoral.

BEHIND THE SCENE

Billboards are dangerous to life if they are not safely constructed and located. The right of a city, however, to regulate them by requiring them to be firmly attached and placed a proper distance back from the street line to insure safety has frequently been recognized by the courts.

They are a menace to health if the space back of them becomes the dumping ground for the filth of the community and they are likely to become so if the sanitary officers are not vigilant. They are especially dangerous to health if they are permitted to be so constructed as to shut out the light and air from homes and offices, as was the case in New York where in some instances these unsightly structures covered the entire fronts of buildings occupied as homes by unfortunate tenement dwellers. But the police power of the city is ample to prevent such nuisances.

They are dangerous in case of fire if constructed wholly of wood and built flush against adjoining buildings, as was shown in the San Francisco disaster where they served as firebrands in spreading the con-

THE IMMORAL SIDE OF BILLBOARD ADVERTISING
The effect on the boys is the same as that produced by a yellow-back novel.

BEFORE AND AFTER

The city condemned this triangle for street purposes in order to rid it of billboards.

flagration. But the right of the city to extend its fire limits and protect itself against the dangers from fire can be applied to billboards as well as to other structures.

Billboards are damaging to the morals of the community when they are used for the display of obscene advertisements or of criminal and unwholesome scenes from sensational plays. The bill posting companies, however, under pressure from public sentiment and statutes have greatly restricted the strictly obscene poster. Yet the boards are still used for depicting the most sensational scenes in cheap dramas which undoubtedly has a deplorable effect on the moral tone of the boys and girls who see them.

UGLINESS AND UNSIGHTLINESS

We have no desire to minimize the force of the arguments as to their danger to life from wind and fire, or their damage to the morals of the community but these are not the strongest indictment against billboards. The strongest objection and the one universally accepted indictment against billboards is the fact that they are unsightly and ugly. They are not only unsightly themselves but they mar the sightliness of every structure about them—so much so that real estate values are affected by their presence. Beauty of environment is recognized today as an asset of permanent value and the surrounding property cannot be defaced without affecting materially the property itself and the entire neighborhood. It is because of this marring of the beauty and attractiveness of our cities that the opposition to billboards should be urged.

METHODS OF ATTACK

This attack can be made along three lines:—

1. By legislation.
2. By taxation.
3. By arousing public sentiment against outdoor advertising.

LEGISLATION AND COURT DECISIONS

A brief review of the legislation and the decisions of the courts in the several states will indicate the difficulties in the way of putting an effective legal check upon billboards. It will also indicate an interesting development on the part of the courts toward a broader interpretation of the police power of the state so as to include some elements of the aesthetic.

In so far as we have been able to learn, billboard legislation did not begin until in 1890 and the first decision of a state Supreme Court

was not rendered until 1893 in the case of Crawford vs. Topeka, 51, Kansas, 756. An examination of the decisions since that time will show that the courts have generally held that the police power of the state cannot be invoked to prevent practices which are offensive only to the purely aesthetic sensibilities. It is usually assumed in these decisions that the prohibition of unsightly advertisements (provided they are not immoral) is entirely beyond the police power and is an unconstitutional interference with the rights of property.

In the first case (Crawford vs. Topeka—51, Kans. 756) decided in 1893, the court said:—

> "Cities of the first class may regulate the erection and maintenance of structures used for advertising purposes and placed upon lots near the street line so as to fully protect persons passing along the streets, but such regulations must be reasonable. * * * In general an owner has the right to erect such buildings or other structures upon his property as he pleases, and may put the premises to any use as may suit his pleasure, provided he does not in doing so annoy, injure, or threaten harm to others."

In Bryan vs. City of Chester—212 Pa. State 259, decided in 1905, the court held:

> "A municipality has no power to enact an ordinance forbidding citizens to erect billboards on their property merely because such boards are unsightly or may become a nuisance. A municipality may prohibit the erection of insecure boards within its limits, prevent the exhibition of immoral or indecent advertisement or pictures, and protect the community from any actual nuisances, resulting from the use of them, but it can go no further."

The Metropolitan Park Commission of Massachusetts under authority of statute granting them the power to "make such reasonable rules and regulations respecting the display of signs, posters and advertisements in or near to and visible from public parks and parkways," passed a regulation prohibiting the maintenance of business signs so near a parkway as to be plainly visible to the naked eye of persons passing along the parkway. A test case (Commonwealth vs. Boston Advertising Co., 188 Mass. 348) arose over a sign placed near the Revere Beach Parkway and the court declared the regulation not to be a "reasonable one and contrary to the provisions of the constitution in taking property for a public use without providing compensation." * * * "This is purely an attempt to protect the aesthetic sense, hence invalid."

"A glaring billboard set opposite a man's house in a vacant lot bordering upon a public highway is offensive."—San Jose case.

THE EAST SAN JOSE CASE—DECISION REVERSED

The latest decision on this point is the much heralded East San Jose case in California. The little city of East San Jose passed an ordinance entirely prohibiting the erection of any billboards, sign boards, or other advertising structure within its corporate limits, and directing the town marshal to tear down and destroy all which were not removed within five days after due notice was served. In August, 1906, the town marshal served notice on Varney & Green, billposters, to remove, within five days, all billboards maintained by them. The company refused to comply with the order and when the marshal began the process of demolition the company sought to enjoin the city officer from enforcing the ordinance. A temporary injunction was granted and the company applied for a permanent injunction. The Circuit Court in 1907 declined to grant it and in an oral opinion Judge Welch approved the declaration of the City Attorney, who in his brief declared:

> "A glaring billboard set opposite a man's house, in a vacant lot bordering upon a public highway in a country town devoted to homes is just as offensive to the immediate residents as would be the maintenance of a pig sty giving forth offensive odors, or the maintenance of a stone breaking machine or the chimes of hoarse bells. In principle there is no difference between them; it is only a difference in degree. Each is an interference with the peaceable and quiet enjoyment of one's property."

The case was carried to the Supreme Court which in June, 1909, in City of San Jose vs. Varney & Green, 100 Pac. 867, overruled the Circuit Court and declared the ordinance to be invalid. In its opinion the court said:

> "Bearing in mind that the ordinance does not purport to have any relation to the protection of passers-by from injury by reason of unsafe structures, to the diminution of hazard of fire, or to the prevention of immoral plays, we find that the one ground upon which the Town Council may be thought to have acted, is that the appearance of billboards is, or may be, offensive to the sight of refined taste. That the promotion of aesthetic or artistic consideration is a proper object of governmental care will probably not be disputed. But so far as we are advised it has never held that these conditions alone will justify as an exercise of the police power, a radical restriction of the right of an owner of property to use his property in an ordinary and beneficial way. Such restriction is, if not taking, *pro tanto*, of the property, a damaging thereof for which under Article 1, Section 14, of the Constitution the owner is entitled to compensation. In most or all of the cases dealing

with prohibition of the right to erect or maintain billboards, it is recognized that the legislature may, under the police power, prohibit advertisements of indecent or immoral tendencies, or signs dangerous to the physical safety of the persons or property of the public * * * * . We are not here, however, concerned with the extent to which the legislative power may, in the effort to protect the public safety or morals, regulate the manner of erecting or using billboards. The ordinance in question does not attempt such regulation, but undertakes to absolutely forbid the erection or maintenance of any billboard for advertising purposes. We have no doubt that this sweeping prohibition was beyond the power of the town trustees."

TENDENCY OF COURTS TO RECOGNIZE AESTHETIC ELEMENT

While the above decisions would indicate that the courts have declined to recognize any exercise of the police power, especially in regard to outdoor advertising, which is not directed toward the protection of public health, public morals and public safety; yet there are other decisions which show an evident growing tendency to recognize the fact that an offense to the eye is just as much of a nuisance as an offense to the ear or nose, and that the power of the state to place restrictions upon the use of private property for the purpose of promoting the beauty and attractiveness of streets, parks and buildings is as valid an exercise of authority as restrictions against offensive sounds and odors.

The Massachusetts legislature in 1898 passed an act restricting the height of buildings about Copley Square, Boston, to 100 feet. The constitutionality of the act was questioned and it was held to be valid, (Attorney-General vs. Williams, 174 Mass. 476) on the ground that the legislature was justified in taking private property—due compensation being allowed—for the purpose of promoting the beauty and attractiveness of a public park in the Capital of the Commonwealth and preventing unreasonable encroachments on the light and air which it had previously received.

Another act of the Massachusetts legislature was passed in 1905, dividing the city of Boston into two districts and providing that in one district, the business section, no building of any kind should in the future be erected to a height of more than 125 feet; and in the other district, the residential section, no building should be erected to the height of more than eighty feet. The plaintiff asked the Building Commissioner for a permit to erect in the residential section a building 120 feet 6 inches in height, but was refused. He appealed to the Board of Appeals and when it sustained the Building Commissioner

BILLPOSTING IN DIRECT VIOLATION OF AN ORDINANCE

madamus proceedings were begun. In the case of Welch vs. Swasey, 193 Mass. 364, the refusal of the Building Commissioner was confirmed. In the concluding paragraph the Court said:

> "The inhabitants of a city or town cannot be compelled to give up rights in property or to pay taxes for purely aesthetic objects; but if the primary and substantive purpose of the legislation is such as to justify the act, considerations of taste and beauty may enter as auxiliary."

The case was carried to the United States Supreme Court. In June, 1909, in an opinion written by Justice Peckham, the decision of the state courts was affirmed.

The Maryland Court of Appeals in 1908, Cochran vs. Preston, 70 Atlantic 113, went even further than the Massachusetts decision to admit aesthetic intent of an act of the legislature. The case arose over the validity of a legislative enactment providing that no building to exceed seventy feet high, except a church, shall be erected in a designated portion in the City of Baltimore, in the center of which stands the Washington monument. Counsel for the appellant argued that the motive behind the act of the legislature was purely aesthetic and that the police power will not justify a taking of private property

THE CITY HALL BEHIND A "TRIPLE-DECKER"

What is the use of "architectural symmetry and harmony" with such surroundings.

without compensation to promote a purely aesthetic purpose. He referred to the statement in Tiedeman which says:

> "Regulations which are designed only to enforce upon the people the legislative conception of artistic beauty and symmetry will not be sustained, however much such regulations may be needed for the artistic education of the people."

The Court makes this significant reply:

> "Such is undoubtedly the weight of authority, though it may be that in the development of a higher civilization the culture and refinement of the people has reached the point where the educational value of fine arts, as expressed and embodied in architectural symmetry and harmony, is so well recognized as to give sanction under some circumstance to the exercise of this (police) power even for such purposes. * * *
>
> "The object of the Act is not merely to preserve the architectural beauty of the locality but also to avoid the increased danger from fire which arises from tall buildings in the event of a general conflagration, and since the object of the act is to promote the public welfare, and the means prescribed are appropriate thereto, the statute is valid and is not a denial of the equal protection of the law."

Here, it seems, is a tacit recognition of the principle that the protection of public aesthetics may be included in the promotion of the public welfare. It is only a step further to the more complete recognition of this principle as sound public policy and a legitimate exercise of governmental authority.

These cases are only symptomatic but they are a distinct advance in the opinion of the courts toward the acceptance of the view that aesthetic considerations alone should be sufficient to render valid and constitutional acts which attempt to regulate nuisances of sight as well as of sound or smell. The courts, in this gradual development, as in all advanced opinions, will be strongly affected by public sentiment. This is significantly pointed out by the Massachusetts Supreme Court (Attorney General vs. Williams, 174 Mass. 476) in the development of the principles of the right of eminent domain:

> "The uses which should be deemed public in reference to the right of the legislature to compel an individual to part with his property for a compensation, and to authorize and direct taxation to pay for it, are being enlarged and extended with the progress of the people in education and refinement. Many things which a century ago were luxuries, or were altogether unknown, have now become necessaries. It is only within a few years that lands have been taken in this country for public

> parks. Now the right to take land for this purpose is generally recognized and frequently exercised. * * * The grounds on which public parks are desired are various. They are to be enjoyed by the people who use them. They are expected to minister not only to the grosser senses, but also to the love of the beautiful in nature, in the varied forms which the changing seasons bring. Their value is enhanced by such touches of art as help to produce pleasing and satisfactory effects on the emotional and spiritual side of our nature. Their influence should be uplifting, and, in the highest sense, educational. If wisely planned and properly cared for, they promote the mental as well as the physical health of the people. For this reason it has always been deemed proper to expend money in the care and adornment of them, to make them beautiful and enjoyable. Their aesthetic effect never has been thought unworthy of careful consideration by those best qualified to appreciate it. It hardly would be contended that the same reasons which justify the taking of land for a public park do not also justify the expenditure of money to make the park attractive and educational to those whose tastes are being formed, and whose love of beauty is being cultivated."

The same mental process which brought the court to this liberal and proper view of the relation of parks to the public welfare will lead them in time to the proper recognition of the importance of aesthetics in the life especially of a great city. Public opinion has long since accepted the fact that the suppression of an eyesore is as legitimate an exercise of the police power as the suppression of bad odors and sounds, and the courts will not have to make any radical departure from well established precedents in order to reach the same conclusion. Mr. Freund in his "Police Power" says:

> "It is conceded that the police power is adequate to restrain offensive noises and odors. A similar protection to the eye, it is conceived, would not establish a new principle but carry a recognized principle to further application."

REASONABLE RESTRICTIONS—HELD VALID

While the courts are only slowly coming to recognize the importance of aesthetic considerations in regard to billboards they have never hesitated to sustain as valid any reasonable billboard regulations which are aimed to protect the public health, public safety and public morals.

The case most often quoted in this connection is Rochester vs. West, 164 N. Y. 510, which arose over the validity of an ordinance passed by the City Council of Rochester prohibiting the erection of any billboards exceeding six feet in height except with the permission of the

AN EYE-SORE ON MARKET STREET

Common Council, and after a notice in writing of the application for the permit has been sent to the owners, occupants, or agents of all houses and lots within a distance of 200 feet from where the billboard is to be erected. The Court declares that the power conferred upon the City of Rochester by its charter authorizes an ordinance of this kind:

> "Such ordinance is not unreasonable or an undue restraint of a lawful trade or business, nor a restraint upon the lawful and beneficent use of private property. * * * It is obvious that its purpose was to allow the Common Council to provide for the welfare and safety of the community in the municipality to which it applied. If the defendant's authority to erect billboards was wholly unlimited as to height and dimensions they might readily become a constant and continuing danger to the lives and persons of those who should pass along the street in proximity of them."

A similar case came up from Buffalo two years later—(Gunning System vs. Buffalo, 77 N. Y. Suppl. 987). In this decision the court said:

> "The provisions in the Charter of the City of Buffalo empowering it to enact such ordinances as shall be deemed ex-

AFTERMATH OF BILLBOARD ADVERTISING

> pedient for the good government of the city and the promotion of peace and good order, authorizes it to enact an ordinance prohibiting the erection of billboards more than seven feet in height and directing that any billboard erected contrary to its provisions shall be abated as a common nuisance."
>
> "Ordinances of this character are upheld on that great principle of law that every person yields a portion of his right of absolute dominion and use of his property in recognition of and obedience to the rights of others, so that others may also enjoy their property without unreasonable hurt or hindrance. * * It is not taking private property for public use but a salutary restraint on the noxious use of the private property by the owner."

In several cases where the courts have been compelled to declare statutes and ordinances invalid as in the East San Jose case mentioned above, they have made it clear that the invalidity was found in the intent of the law to prohibit rather than to regulate.

ST. LOUIS ORDINANCE—ONLY REGULATIVE

The ordinance of the City of St. Louis whose enforcement was enjoined and whose validity is soon to be determined by the Supreme Court of the state is a purely regulative ordinance, drawn in the interests of public health and safety. Its framer carefully avoided making it in any sense prohibitive. It is strikingly similar to the Rochester and Buffalo cases. With these precedents before them, we feel that the Supreme Court of Missouri will sustain the ordinance as a reasonable and necessary exercise of the police power on the part of the city.

TAXATION OF BILLBOARDS

Taxation has been frequently suggested as a proper and effective check upon billboard extension. Some have gone so far as to declare that "billboards should be taxed out of existence." This method of extermination is no more feasible in law than the exercise of the police power. Billboards can, without doubt, be taxed just as all property is taxed but the taxation must be reasonable and not confiscatory. It is extremely doubtful whether the courts would recognize as valid any legislation which under the guise of raising revenue really is meant as an instrument of regulation or destruction.

BILLBOARDS NOT TAXED IN ST. LOUIS

In this connection it is interesting to note the insignificant sum of money which these advertising companies pay into the city treasury

for the privilege of carrying on this business and for the protection of their property estimated to be worth approximately $140,000. Three companies in St. Louis each pay a license fee of $10.00 for permission to do business in the city, but none of them pay a penny into the treasury for the protection of their tangible property except upon their vehicles and other personal property—nor do the owners of real estate who receive the rental from the use of their property for advertising purposes. The billboard companies doing a business which amounts to at least $450,000 annually pays into the city the mere pittance of $30.00 for all of the financial advantages which accrue to them from the city and the protection of their large property interests. There is no reason why these companies should not pay their proportionate share for the maintenance of the city government.

We would recommend in this connection the passage of ordinances increasing the license fee to not less than $50.00 each per annum and imposing a property tax of not less than three cents per square foot of billboard area. A tax of three cents per annum per square foot of billboard surface area would, on the basis of 1,340,000 square feet, amount to approximately $40,000 annually—a very considerable income to the city.

CABANNE BRANCH LIBRARY
The roof can be seen over the top of the double-decker board.

Many suggestions have been made in other cities and states regarding the proper rate of taxation. A proposed bill in New York fixed the rate at twelve cents per square foot. In Los Angeles an ordinance was introduced but not passed fixing the rate at fifty cents per square foot. Chicago passed an ordinance fixing a license on billboards, having a superficial area of one hundred square feet or more or having a height of ten feet or more, of fifty cents per square foot per annum. This was held to be confiscatory by the courts and declared void. We believe a tax of three cents per square foot would be well within the bounds of reasonableness, and that an ordinance to that effect would be sustained by the courts.

SOME ATTEMPTS TO REGULATE IN AMERICAN CITIES

KANSAS CITY

One of the most significant steps in the effort to eliminate by law the billboard evil is the provision in the recent Kansas City Charter which gives the Council authority to prohibit by ordinance the construction or maintenance of billboards within any district of the city which it may prescribe and to provide for compensation to property owners who are damaged by the restriction unless their consent is first obtained. The damages and other costs are to be treated as a public improvement and assessed against the property in a benefit district. If the decision in Massachusetts (Attorney-General vs. Williams, 174 Mass. 476) is used as a precedent it would seem that the Kansas City provision would stand the test of constitutionality, especially when compensation is provided, in sections of the city where billboards have not already been erected.

WASHINGTON, D. C.

In the District of Columbia according to an act of Congress no billboard can be erected and maintained until a permit has been secured from the Commissioners of the District and they can use their discretion in granting such permits. A few months ago they voted that no more permits should be issued. The law further provides that "written authority shall only be granted in resident streets upon application made in writing and signed by a majority of the residents on the side of the square in which the display is to be made and also upon the side of the confronting square." These regulations rigidly enforced by officials in sympathy with the effort to improve the appearance of the city will soon rid the National Capital of this nuisance.

ADVERTISING AS HIGH AS THE EYE CAN SEE

CINCINNATI

The Business Men's Club of Cincinnati, after a vigorous and effective campaign has recently succeeded in having an ordinance passed by the city which is attracting considerable attention. Its chief provisions are, in brief:

1. A billboard shall not be higher than 12 feet above ground, shall have a 24-inch space between the board and the ground, shall not contain more than 500 square feet of surface area, shall have an open space of 6 feet between adjacent billboards, and shall be at least 15 feet back from the building line.

2. Billboards within the fire limits shall be entirely of metal, including the frame work and supports.

3. All advertising matter shall be inspected and approved by the Superintendent of Police before it is allowed to be posted.

4. No sign or billboard shall be erected on or facing any public park, public square or public building.

The ordinance has not yet been before the courts but it is believed by the able attorneys who framed the measure to be injunction-proof.

From this discussion of the various forms of legislation which can be resorted to in order to put a check on this form of civic ugliness it will be seen that, at best, laws and ordinances can be only regulative. In this country the rights of the owner of private property have been so sacredly guarded by the courts that, for the purpose of advertising at least, he has the legal right to use his property as he pleases free from interference under the police power unless it can be shown to be a nuisance or detrimental to the public health, public safety or public morals.

BILLBOARDS AND PUBLIC OPINION

The most effective force for the abolition of the billboard is the force of public opinion. This fact one of the billboard publications admitted in a recent editorial, when it said:

> "Since the truth is self-evident that the face of the country is the property of its people, it follows that the people have the billboard matter in their own hands. When the masses raise their voices against this form of advertising it will soon be dropped because it will then be no longer profitable."

This is unquestionably what is taking place today in St. Louis as well as in every section of the country. The long list of laws and ordinances in various states and cities, the aggressive campaigns of commercial clubs, improvement associations and women's societies, and the efforts of the bill posting companies themselves to prohibit

THE EUGENE FIELD SCHOOL
Hemmed in on two sides by rows of "double-deckers."

obscene advertisements, all point to a significant growth of sentiment against billboards within the past few years. The sentiment is growing so strong that many reputable firms are abandoning this form of publicity for the reason that their patrons object to it. The large retail merchants of St. Louis have all agreed not to use the billboards, partly for this reason and partly because they also are believers in civic beauty. Only one banking firm in this city resorts to this method of exploiting business. Some of the others have declined because they consider the billboards no longer a dignified means of promoting business. A few real estate agents have positively refused to permit the use of vacant lots under their charge for the erection of billboards; and many property owners regularly decline generous offers for the use of corner lots.

That the campaign is having a telling effect on the billposters is shown in the following quotation from a letter in the May, 1909, number of "Signs of the Times," one of the advertising publications:

> "Some months ago the Board of Directors of the Associated Billposters and Distributers' Association met in Oklahoma City. In the course of business Mr. ———— of Detroit, Mich., laid bare the fact that the billposters throughout the country

A DRESDEN ADVERTISING KIOSK

A BERLIN ADVERTISING KIOSK

had for the past two years met with reverses not justified by business conditions. * * *

"I believe there is hardly an advertiser who uses billposting but who has received numerous communications from different organized bodies of women's clubs, civic federations, and others of this ilk who lay awake at nights to devise ways and means of interfering with the affairs of others.

"This has been going on for some time. * * *

"Last winter, I honestly believe, bill posting especially in the East and North decreased in volume seventy-five per cent. In the agricultural districts of the South and West it was not affected. This is accounted for because of the fact that the civic organizations have not been as active in the West as they have been in the East and North."

We believe the abolition of this form of advertising would be hailed by most merchants and producers with relief. It is chiefly the man seeking to build up a market for a new product that seeks this means of publicity. Most of the advertising on billboards is by way of defense, i. e., one dealer has adopted the method and his competitors are forced to enter the new field and adopt the new means of commercial warfare. This expensive method of increasing trade can be stopped.

It is to a vigorous campaign of public opinion that we must look for the practical elimination of the billboard abuse. Legislation can regulate them, taxation can check them, but public sentiment alone can eliminate them. They are maintained only because they are profitable. As soon as they become generally unpopular they will become unprofitable. When they become unprofitable they will disappear.

LEGITIMATE ADVERTISING

This committee would not be understood as opposing all forms of advertising. Publicity in business is not only legitimate but it is educative. Many articles of common use, of greatest convenience, and unquestioned influence on the general uplift of the people have been made so by advertisements. We are opposing that form of advertising which rudely forces itself upon our attention at all hours of the day and night, whether in the city or in the country, and does this at the expense of the landscape and the appearance of the streets. One of the strong arguments of the billposter is that the billboard furnishes a form of advertising "that can't be dodged." You are compelled to see it whether you wish to or not—and the more gaudy and loud it is made the more compelling it becomes. Such advertising is rapidly becoming profitable only to the billposter.

We are not writing a brief for the advertising departments of any publication but it is the opinion of this committee that the legitimate place for advertising is to be found in the columns of our newspapers and magazines, where the average citizen can read it if he desires and without feeling the offense which comes with having a thing forced upon him against his will.

OUTDOOR ADVERTISING IN OTHER COUNTRIES

In the effort to determine upon the best method of regulating billboards it is instructive to notice some of the methods of controlling out-door advertising adopted by other countries as obtained chiefly from the consular reports furnished upon request of the American Civic Association.

ENGLAND

Out-door advertising in England, until within the past two years, has been about as little restricted as in America.

In 1907, however, Parliament recognized the demands of public sentiment and passed a comprehensive act (7 Edw. 7) entitled the "Advertisement Regulation Act" giving to local authorities the power to make by-laws for the regulation of advertisements. The second clause reads:

> "For regulating, restricting, or preventing the exhibition of advertisements in such places and in such manner, or by such means, as to affect injuriously the amenities of a public park or pleasure promenade or to disfigure the natural beauty of a landscape."

This is a distinct step in advance of American legislation and judicial opinion in that the aesthetic principle is clearly recognized and made legal.

FRANCE

France has always kept a close supervision over out-door advertising and fixed a tax upon every poster placed upon a wall or building. Before a poster is displayed the advertiser or billposter must submit two copies to the proper officials—one to be filed, the other to be stamped for use. With the copies must be furnished information as to (1) the text of the poster; (2) the name, address and profession of the advertiser; (3) the name and address of the billposter; (4) the dimensions of the poster; (5) the number of copies to be posted; (6) the exact location where the poster is to be displayed; (7) the length of time during which it is to be displayed. An annual tax is levied

upon every advertisement of a more or less permanent character as follows: In communes of less than 2500 inhabitants, 12 cents per square meter; in communes from 2,500 to 40,000 inhabitants, 13 cents; in cities over 40,000, 20 cents; and in Paris 30 cents per square meter. Temporary posters are subject to a stamp tax according to size, from 2 to 6 cents per sheet.

Consul General Frank H. Mason, writes:

> "It will be obvious that a system so rigid and elaborate as this gives the authorities of every village and commune in France absolute control of all posters and announcements displayed in public places, and practically suppresses the abuses which prevail in that respect in certain other countries. No one is permitted in France to deface streets and public places with crude, ostentatious announcements of his business or other subject. Billboards are infrequent in Paris, and are generally built permanently into a wall, where they are taxed according to their superficial area."

The advertising kiosks have become a prominent feature of Paris streets and boulevards. In addition to these forms of advertisements, permanent frame billboards are erected on the walls of market houses

A PARIS ADVERTISING KIOSK